

Executive Summary – Enforcement Matter – Case No. 45512
Caliber Texas Properties, L.P.
RN105978332
Docket No. 2012-2366-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Pipe Coatings International, 9022 Vincik Ehlert Road, Fort Bend County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 7, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,098

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,098

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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Docket No. 2012-2366-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 22, 2012

Date(s) of NOE(s): November 7, 2012

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result for a routine distribution sample collected [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii)].
3. Failed to collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of being notified of a distribution total coliform-positive result [30 TEX. ADMIN. CODE § 290.109(c)(4)(B)].
4. Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. On January 9, 2013, collected a raw groundwater source *E. coli* sample from the Facility's well; and
- b. By January 14, 2013, implemented procedures to ensure that all DLQORs are submitted in a timely manner and timely submitted DLQORs for the third and fourth quarters of 2012.

Technical Requirements:

The Order will require Respondent to:

- a. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting all routine, repeat, and groundwater source *E. coli* samples from each groundwater source in use at the time the distribution coliform-positive sample was collected, and providing water that meets the provisions regarding microbial

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contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and

b. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Katy Montgomery, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4016; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Arthur Amron, Vice President & Assistant Secretary of Texas GP LLC, the General Partner of, Caliber Texas Properties, L.P., 14301 Caliber Drive, Suite 300, Oklahoma City, Oklahoma 73134

Matthew Austin, President, Caliber Texas Properties, L.P., 14301 Caliber Drive, Suite 300, Oklahoma City, Oklahoma 73134

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	12-Nov-2012	Screening	14-Nov-2012	EPA Due	31-Dec-2012
	PCW	5-Mar-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Caliber Texas Properties, L.P.
Reg. Ent. Ref. No.	RN105978332
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45512	No. of Violations	4
Docket No.	2012-2366-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katy Schumann
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,350**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **30.0%** Enhancement **Subtotals 2, 3, & 7** **\$405**

Notes Enhancement for six NOV's with same/similar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$15**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$364**
Approx. Cost of Compliance **\$587**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,740**

OTHER FACTORS AS JUSTICE MAY REQUIRE **20.6%** **Adjustment** **\$358**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided costs of compliance associated with Violation Nos. 1, 2, 3, and 4.

Final Penalty Amount **\$2,098**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$2,098**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$2,098**

Screening Date 14-Nov-2012

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PCW

Respondent Caliber Texas Properties, L.P.

Policy Revision 3 (September 2011)

Case ID No. 45512

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105978332

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for six NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 14-Nov-2012

Docket No. 2012-2366-PWS-E

PCW

Respondent Caliber Texas Properties, L.P.

Policy Revision 3 (September 2011)

Case ID No. 45512

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105978332

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(i) and Tex. Health & Safety Code § 341.033(d)

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the months of October 2011 through March 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect routine coliform samples could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 6

183 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$900

Six monthly events are recommended (based on the months that the required samples were not collected).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$165

Violation Final Penalty Total \$1,411

This violation Final Assessed Penalty (adjusted for limits) \$1,411

Economic Benefit Worksheet

Respondent Caliber Texas Properties, L.P.
Case ID No. 45512
Reg. Ent. Reference No. RN105978332
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	22-Oct-2012	30-Sep-2013	0.94	\$5	n/a	\$5

Notes for DELAYED costs

The delayed cost includes the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that all required coliform distribution samples, including repeat, increased distribution and groundwater source Escherichia coli samples are collected. The date required is the date of the record review. The final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	1-Oct-2011	31-Mar-2012	1.42	\$11	\$150	\$161
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to conduct routine coliform sampling (\$25 per sample x 6 samples), calculated for the months sampling was not conducted.

Approx. Cost of Compliance

\$250

TOTAL

\$165

Screening Date 14-Nov-2012
Respondent Caliber Texas Properties, L.P.
Case ID No. 45512
Reg. Ent. Reference No. RN105978332
Media [Statute] Public Water Supply
Enf. Coordinator Katy Schumann

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PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(3)(A)(ii)

Violation Description

Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result for a routine distribution sample collected during the month of July 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect repeat samples may expose customers of the Facility to contaminants which could exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$150

One monthly event is recommended (based on the month that the required samples were not collected).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$235

This violation Final Assessed Penalty (adjusted for limits) \$235

Economic Benefit Worksheet

Respondent Caliber Texas Properties, L.P.
Case ID No. 45512
Reg. Ent. Reference No. RN105978332
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs are captured in the Economic Benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	12-Jul-2012	13-Jul-2012	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect all required repeat samples (\$25 per sample x 4 samples), calculated for the 24 hour period after the notice of the coliform-positive sample.

Approx. Cost of Compliance

\$100

TOTAL

\$100

Screening Date 14-Nov-2012

Docket No. 2012-2366-PWS-E

PCW

Respondent Caliber Texas Properties, L.P.

Policy Revision 3 (September 2011)

Case ID No. 45512

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105978332

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(4)(B)

Violation Description

Failed to collect one raw groundwater source Escherichia coli sample from the Facility's well within 24 hours of being notified of a distribution total coliform-positive result during the month of July 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect a triggered source monitoring sample could result in customers of the Facility being exposed to contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$150

One monthly event is recommended for the month in which the triggered source sample was not collected.

Good Faith Efforts to Comply

0.0%

Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$235

This violation Final Assessed Penalty (adjusted for limits) \$235

Economic Benefit Worksheet

Respondent Caliber Texas Properties, L.P.
Case ID No. 45512
Reg. Ent. Reference No. RN105978332
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs are captured in the Economic Benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	12-Jul-2012	13-Jul-2012	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect raw groundwater source samples from each active groundwater well (\$25 per sample), calculated for the 24 hour period after the Respondent was notified of the coliform-positive result.

Approx. Cost of Compliance

\$25

TOTAL

\$25

Screening Date 14-Nov-2012
Respondent Caliber Texas Properties, L.P.
Case ID No. 45512
Reg. Ent. Reference No. RN105978332
Media [Statute] Public Water Supply
Enf. Coordinator Katy Schumann
Violation Number 4

Docket No. 2012-2366-PWS-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Rule Cite(s) 30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of each quarter. Specifically, the Respondent did not submit DLQORs from the fourth quarter of 2011 through the second quarter of 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 3 270 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$150

Three quarterly events are recommended (based on the quarters that the required reports were not submitted).

Good Faith Efforts to Comply

10.0% Reduction

\$15

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on January 14, 2013.

Violation Subtotal \$135

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$74

Violation Final Penalty Total \$217

This violation Final Assessed Penalty (adjusted for limits) \$217

Economic Benefit Worksheet

Respondent Caliber Texas Properties, L.P.
Case ID No. 45512
Reg. Ent. Reference No. RN105978332
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$45	22-Oct-2012	14-Jan-2013	0.23	\$1	n/a	\$1
Remediation/Disposal	\$100	22-Oct-2012	14-Jan-2013	0.23	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished including but not limited to the submittal of signed and certified quarterly DLQORs, calculated from the date of the record review to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$67	10-Jan-2012	10-Jul-2012	1.42	\$5	\$67	\$72
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and submit three DLQORs (\$22.50 per report), calculated for the period in which the DLQORs were due.

Approx. Cost of Compliance

\$212

TOTAL

\$74



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603713934, RN105978332, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603713934, Caliber Texas Properties LP **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN105978332, PIPE COATINGS INTERNATIONAL **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 9022 VINCIK EHLERT ROAD, FORT BEND COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
0790515

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: January 03, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 14, 2007 to November 14, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Katy Schumann

Phone: (512) 239-2602

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | NO |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
Item 1 July 18, 2012 (1020662)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 02/29/2012 (1042210)	CN603713934
	Self Report? NO	Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)

Description: 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 TCR Routine Monitoring Violation 10/2011 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 11/2011 - Failure to collect any routine monitoring sample(s).

2 Date: 03/15/2012 (1042210) CN603713934

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 12/2011 - Failure to collect any routine monitoring sample(s).

3 Date: 03/27/2012 (1042210) CN603713934

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 01/2012 - Failure to collect any routine monitoring sample(s).

4 Date: 04/10/2012 (1042210) CN603713934

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 02/2012 - Failure to collect any routine monitoring sample(s).

5 Date: 05/07/2012 (1042210) CN603713934

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 03/2012 - Failure to collect any routine monitoring sample(s).

6 Date: 10/11/2012 (1042210) CN603713934

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: TCR Repeat Monitoring Violation 07/2012 - Failure to collect all repeats following a coliform found result.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION

CONCERNING

CALIBER TEXAS PROPERTIES, L.P.

RN105978332

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2012-2366-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Caliber Texas Properties, L.P. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns a public water supply at 9022 Vincik Ehlert Road in Fort Bend County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on October 22, 2012, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of October 2011 through March 2012.
3. During a record review conducted on October 22, 2012, TCEQ staff documented that the Respondent did not collect a set of repeat distribution coliform samples during the month of July 2012.
4. During a record review conducted on October 22, 2012, TCEQ staff documented that the Respondent did not collect one raw groundwater source *Escherichia coli* sample during the month of July 2012.
5. During a record review conducted on October 22, 2012, TCEQ staff documented that the Respondent did not submit Disinfectant Level Quarterly Operating Reports ("DLQORs") from the fourth quarter of 2011 through the second quarter of 2012.
6. The Respondent received notice of the violations on November 16, 2012.
7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On January 9, 2013, collected a raw groundwater source *Escherichia coli* sample from the Facility's well; and
 - b. By January 14, 2013, implemented procedures to ensure that all DLQORs are submitted in a timely manner and timely submitted DLQORs for the third and fourth quarters of 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result for a routine distribution sample collected, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of being notified of a distribution total coliform-positive result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(B).

5. As evidenced by Findings of Fact No. 5, the Respondent failed to submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Two Thousand Ninety-Eight Dollars (\$2,098) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Two Thousand Ninety-Eight Dollar (\$2,098) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Ninety-Eight Dollars (\$2,098) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Caliber Texas Properties, L.P., Docket No. 2012-2366-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting all routine, repeat, and groundwater source *Escherichia coli* samples from each groundwater source in use at the time the distribution coliform-positive sample was collected, and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;

- b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087


3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

7/11/13
Date


I, the undersigned, have read and understand the attached Agreed Order in the matter of Caliber Texas Properties, L.P. I am authorized to agree to the attached Agreed Order on behalf of Caliber Texas Properties, L.P., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Caliber Texas Properties, L.P. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date

Arthur Anron
Name (Printed or typed)
Authorized Representative of
Caliber Texas Properties, L.P.
Texas GP LLC, its General Partner

Vice President + Assistant Secretary
Title of Texas GP LLC, the general
partner of Caliber Texas Properties, L.P.

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.

Prepared by _____

Approved by Matt Austin @ Caliber Properties